

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

SEP 13 2004

In the Matter of:

PUBLIC SERVICE  
COMMISSION

APPLICATION OF THE UNION LIGHT, HEAT )  
AND POWER COMPANY FOR DEVIATION )  
FROM THE REQUIREMENTS OF KRS )  
278.2207(1)(b), 278.2207(2) and 278.2219 )  
TO ALLOW IT TO ENTER INTO A NATURAL )  
GAS ASSET MANAGEMENT AGREEMENT )  
WITH CINERGY MARKETING & )  
TRADING, LP, ITS AFFILIATE, FOR A TWO- )  
YEAR TERM STARTING NOVEMBER 1, 2004 )

CASE NO. 2004-00363

PETITION OF  
THE UNION LIGHT, HEAT AND POWER COMPANY AND  
CINERGY MARKETING & TRADING, LP  
FOR CONFIDENTIAL TREATMENT OF INFORMATION

The Union Light, Heat and Power Company (ULH&P), and Cinergy Marketing & Trading, LP (CM&T) (collectively, the Requesting Parties), pursuant to 807 KAR 5:001, Section 7, jointly request the Commission to protect as confidential certain information contained in the Application, and testimony of James P. Henning, filed contemporaneously with this petition. In support thereof, the Requesting Parties state:

1. ULH&P has filed today an application and testimony relating to its competitive bidding process to award a new Asset Management Agreement. It contains the amount of the monthly management fee payable to ULH&P, and the volumes and amounts of hedging purchases, and the prices paid for gas purchases, the public disclosure of which would damage ULH&P's and the bidders' competitive position and business interests, and would also damage ULH&P and CM&T. As required by 807 KAR 5:001, Section 7(2)(b), ULH&P is providing one copy of the information under seal.

2. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878 (1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of that party.

3. The winning bid information would, if disclosed, injure ULH&P and Cinergy Marketing & Trading, LP (CM&T), the winning bidder, and their competitive position and business interests. ULH&P's bid process is confidential. Public release of this information would allow other asset management firms to submit future bids in a manner close to the winning bid this year, that would destroy the purpose of competitive bidding, where none of the bidders should have access to this type of information, and which would tend to undermine ULH&P's ability to get better bids. Further, other asset management firms would have access to how CM&T priced its services, while CM&T would not have access to such information from other firms. This would put CM&T at a competitive disadvantage with such other firms in bidding on other jobs.

In addition, the information contains the volumes and prices at which ULH&P locked in a fixed price for a portion of its natural gas hedging program, which has been treated as confidential in ULH&P's pilot hedging program case before the Commission, and which is also not publicly available, and the prices paid for gas purchased from its asset manager.

4. The information for which ULH&P and CM&T are seeking confidential treatment is not known outside of ULH&P and CM&T, and it is not disseminated within ULH&P or CM&T except to those employees with a legitimate business need to know and act upon the information.

5. The public interest will be served by granting this Petition, in that competition among ULH&P's prospective asset managers will be fostered, and the cost of gas to ULH&P's customers will thereby be minimized, and CM&T will not be at a competitive disadvantage in bidding on future jobs.

WHEREFORE, ULH&P and CM&T respectfully request that the Commission classify and protect as confidential the specific information described herein.

Respectfully submitted,



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